

## REMARKS

Claims 10-12, 21 and 22 are rejected under 35 USC 112, second paragraph, the Examiner contending that Claims 10 and 21 are incomplete for omitting essential elements, specifically, a plurality of rules are not disclosed or described in the claim in such a way as to facilitate an understanding of what exactly has been claimed. In Applicant's prior response, Applicant noted the applicable MPEP section 2173.02 and explained, at page 8 of the response, why the requirements of the MPEP section are met. In maintaining the rejection, the Examiner notes at pages 9-10 of the Action that although claims are interpreted in light of the specification, limitations from the specification are not read into the claims citing *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir.). However, the Examiner's reliance upon this issue of claim construction is misplaced. While the Examiner correctly notes that limitations from the specification are not read into the claims, this applies in situations where an attempt is being made to distinguish over prior art with reference to a rejection under 35 USC 102 or 103. See *In re Van Geuns*, at page 84. In the present application, Applicant is not seeking to read limitations from the specification into the claims to distinguish over the prior art, but rather has pointed out that the applicable MPEP section is 2173.02 and, as previously argued, all of the requirements of that section are met by the claims. Accordingly, reconsideration and withdrawal of the rejection under 35 USC 112, second paragraph, is requested.

Claims 1-6, 8-14, 16 and 18-28 are rejected under 35 USC 102(b) as being anticipated by Goden et al. Claims 7, 17, 29 and 30 are rejected under 35 USC 103(a) as being unpatentable over Goden et al. In asserting the rejections under 35 USC 102 and 103, the Examiner has repeated, apparently verbatim, the rejection from the prior Office Action. In the Examiner's response to arguments at page 10, the Examiner, in responding to a particular argument made by Applicant asserts that Goden et al., at column 3, lines 8-10, indicates that figures 5-12 are illustrative examples, not limited showings of the device of Goden et al.

In response, Applicant notes that the reference to a single product is one of several limitations in Applicant's claims not disclosed by the prior art. Although Applicant disagrees that the relied upon portion of Goden et al., i.e., Figures 5-12 are not limited showings of the device of Goden as alleged by the Examiner, even assuming that to be the case, in the Action, the

Examiner does not address the additional limitations contained in the claims which distinguish over the prior art other than to repeat the same assertions which Applicant had previously explained in the prior response at pages 9-10.

In particular, independent Claims 1 and 26 require calculating a sales trend condition, Claim 13 requires presenting a sales trend status indicator, and Claim 23 require applying a plurality of rules. An explanation and arguments regarding these claim limitations are set forth in the prior response at pages 9-10. However, since the Examiner has not addressed how these limitations are met by Goden et al. in light of the arguments presented, other than repeating and reasserting the same arguments, from the prior Office Action which have already been distinguished in Applicant's prior response, Applicant is unable to further respond to the rejection. However, in summary, Goden et al. does not do any calculations regarding sales trend, or provide any sales trend indication to the user as required by the claims, and does not require applying a plurality of rules regarding the selected product to determine a product status.

Finally, the Examiner reasserts a requirement for information under 37 CFR 1.105 noting that no date is given as to when a web page was first created. In response, Applicant notes that Figure 2 is not a screen shot as alleged by the Examiner. Rather, Figure 2 is a pen and ink drawing approximating what an actual web page according to the present invention would look like. In the Action, the Examiner requires in response to "please provide the citation and a copy of the web page known by the assignee, or by which any of the Applicant's authored or co-authored, describing the technology described by Figure 2, *ecost.com*" and "for the publication, please provide a concise explanation of the relevance placed on that publication in distinguishing the claimed invention from the prior art." In response to these two requests, Applicant is unable to comply because no web page of Figure 2 exists. However, in an attempt to comply with the Examiner's request to the extent possible, Applicant notes that Figure 2 was created by a draftsman on or about February 12, 2002.

Regarding the Examiner's request for a "concise explanation of the reliance placed on that publication in distinguishing the claimed subject matter from the prior art," since there is no publication that is prior art that Applicant is aware of other than the references cited by the Examiner, Applicant is unable to otherwise respond to this request. Thus, in response to the

Examiner's request under 37 CFR 1.105, Applicant does not have or cannot readily obtain the required information.

In view of the foregoing, Applicant submits that all outstanding requirements have been complied with. The claims pending for examination, namely claims 1-30 are now in condition for allowance, which early action is requested.

If there are any fees due in connection with the filing of this response, please charge those fees to our Deposit Account No. 02-2666. If a telephone interview would expedite the prosecution of this Application, the Examiner is invited to contact the undersigned at (310) 207-3800.

**PETITION FOR EXTENSION OF TIME**

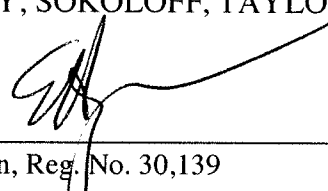
Per 37 C.F.R. 1.136(a) and in connection with the Office Action mailed on June 7, 2007, Applicant respectfully petitions Commissioner for a one (1) month extension of time, extending the period for response to October 7, 2007. Please charge the petition filing fee for a 37 C.F.R. 1.17(a)(1) large entity to our Deposit Account No. 02-2666. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN

Dated: \_\_\_\_\_

10/3/07

  
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**CERTIFICATE OF ELECTRONIC FILING**

I hereby certify that this correspondence is being submitted electronically via EFS Web on the date shown below

  
Linda Metz

October 3, 2007

10/3/2007